IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2007

C O R A M

THE HONOURABLE Mr.JUSTICE P.JYOTHIMANI

W.P.No.34002 of 2007

P.Gnanguru .. Petitioner

-Vs.-

1. The Union of India,
   The Office of Regional Registration of Stamps,
   rep. by its Chief Secretary,
   to Government of Pondicherry,
   Puducherry - 1.

2. The Inspector General of Registration,
   Puducherry.

3. The Sub-Registrar,
   Oulgaret Sub-Registrar's Office,
   Jawahar Nagar, Boomiyanpet,
   Puducherry - 605 005. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 3rd respondent to return the sale deed dated 13.12.1999 P.No.222/99 forthwith.

For Petitioner : Mr.R.Subramanian.

For Respondents : Mr.T.Murugesan
Senior Counsel for Mr.Vijay Anand, GA(Pondy)

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O R D E R

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This writ petition is filed for a direction against the third respondent, the Sub Registrar, Oulgaret to return the sale deed dated 13.12.1999 in P.No.222/99 after completing the registration formalities.

2. The case of the petitioner is that he has purchased a piece of land in Re-Survey No.31/14 of Reddiar Palayam Village, Puducherry from its lawful owners under a sale deed dated 13.12.1999. The said sale deed duly engrossed in the required stamp papers and presented for registration before the third respondent on 13.12.1999 and the third respondent has also received the document and collected the registration charges of Rs.482/- and issued a receipt and assigned P.No.222/99. Thereafter, when the petitioner contacted the third respondent,

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he was informed that there are some defects in the valuation and therefore the matter will be referred under Section 47-A of the Stamps Act and they will issue a notice to the petitioner. However, the petitioner has not received any notice. In these circumstances, the petitioner has filed the present writ petition.

3. It is seen that the document was presented in December 1999 and was kept pending by the third respondent for more than 7 years without any justification at all. Even if there is any enquiry under Section 47-A of the Act, the petitioner is certainly entitled for notice at the time of enquiry.

4. Mr.T.Murugesan, learned senior counsel appearing for the respondents submitted that the third respondent, Sub Registrar, Oulgaret has passed an order dated 12.11.2007 refusing to register the document on the basis that the land is covered under Pondicherry Land Reforms (Fixation of ceiling on Land) Act, 1973 and a Notification was issued under Section 17 (1) of the said Act and published in the Gazette on 06.05.1982. It is further stated in the said letter that the proceedings for determination of the surplus and retention area is still under process and excess land which is to be acquired by the Government under Section 17 has not yet been determined. The registering authorities has also insisted for 'No Objection Certificate' from the appropriate authorities and the 'No Objection Certificate has not been produced. In view of the same, the third respondent has passed the subsequent order dated 12.11.2007.

5. The applicability of The Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 in respect of the property like this came up for consideration before this Court in W.P.No.32472 of 2006 and a learned Single Judge of this Court by an Order dated 08.03.2007 set aside the order of the authorities namely the Sub Registrar, Oulgaret, passed under the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 and directed the Sub Registrar to register the document. This Court has also held that after the re-classification under the Pondicherry Town and Country Planning Act, 1969, from agricultural use to residential use, it is doubtful that the Land Reforms Act applies to such case. Further this Court has held that after publication is effected under Section 17 (1) of the Act which was on 11.11.1981, the authorities has not proceeded to implement the same for over 26 years and in such circumstances, there is no right on the part of the authorities to restrict parties to alienate the property by the petitioner. Referring to Section 22 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973, the learned Judge of this Court has held that there is power on the part of the Government in proceeding with the acquisition in respect of excess land after registration. It is also relevant to point out that under Section 17 of the Act, for the purpose of taking over possession of the excess land, the Government have certain powers to do so. Taking into consideration, the relevant aspect and considering Sections 22(2) and 22(3) of the Act, which confer certain powers for the

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Government even after registration to proceed with acquisition if it is an excess land that has been sold, the Government was directed to register the sale deed effected.

6. Mr.T.Murugesan, learned Senior Counsel appearing for the respondents would submit that as against the said Judgment, the Government has preferred an appeal and the same is pending.

7. I have heard Mr.R.Subramanian, learned counsel appearing for the petitioner and Mr.T.Murugesan, learned senior counsel appearing for the respondents.

8. A reference to Section 22(1) of the Act certainly creates a bar for the purpose of registration of documents in respect of properties which comes under the excess ceiling area. In the above said Judgment, the said publication under Section 17 of the Act has been set aside and under such circumstances, the question which remains to be considered is whether inspite of the said setting aside of the notification under Section 17, the Government has got power under Sections 22(2) & (3) of the Act and can still proceed with acquisition in respect of excess land. In any event, as suggested by the learned Senior Counsel appearing for the respondents as against the Judgment of the learned Single Judge a writ appeal is pending and the result is awaited.

9. In such circumstances, I am of the considered view that as on date there is no bar for the third respondent to register the document. The third respondent has returned the document under the pretext of finding the correct guideline / market value under Section 47-A of the Act which is totally arbitrary and illegal on the part of the third respondent. In view of the same, the writ petition is allowed with a directed to the third respondent to register the document. Now that the third respondent has passed an order dated 12.11.2007, refusing to register the document, the petitioner shall re-present the document and on receipt of the the re-presented document, the third respondent shall register the document in accordance with law. Further it is made clear that the registration shall be subject to the final decision of the writ appeal which is stated to have been filed by the respondents and also subject to the rights of the Government which is available under Sections 22(2) & 22(3) of the Act as well as other provision of the Act. No costs.

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sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Chief Secretary,
   The Office of Regional Registration of Stamps,
   Government of Pondicherry,
   Puducherry - 1.

2. The Inspector General of Registration,
   Puducherry.

3. The Sub-Registrar,
   Oulgaret Sub-Registrar's Office,
   Jawahar Nagar, Boomiyanpet,
   Puducherry - 605 005.

+ 1 cc to the Senior G.P cum Senior PP for Pondicherry SR 68259

+ 1 cc to MR. R. Subramanian, Advocate SR No. 68091

SR/20.11.2007

W.P.No.34002 of 2007

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